

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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In Re

HOWARD KATZ

Plaintiff,

CV 06-0574 ((DLI))(JO)

-against-

JOE ROBERT MOGUS, et al,

Defendants.

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AFFIRMATION IN OPPOSITION OF MOTION TO DISMISS

Howard Katz, by his attorney Law Office of Shmuel Klein, P.C., affirms under the penalties of perjury as follows:

1. I am the Attorney for the Plaintiff in the above captioned case. I make this affirmation in opposition to the Defendant's motion to dismiss this case.
2. On Nov 6, 2006, Defendant filed a Notice of Motion for dismissal of the case. Defendant's submission to the court that the entire case be dismissed solely as a result of a harmless and non-prejudicial typographical error is no basis to dismiss this case.
3. Counsel of the Plaintiff adheres to all court rules and deadlines and did not deliberately create Defendant's unsettlement.
4. As seen by the exhibits annexed hereto, there is no question that Defendant was aware and should expect proper jurisdiction in New York. Now Defendant admits that jurisdiction is proper in the Southern District of New York. Plaintiff will agree to the transfer to the Southern District of New York.
5. Plaintiff conducted business with Defendant in New York over the course of approximately 19 years, from 1984 to 2003.

6. Plaintiff and Defendant made their transactions frequently in the State of New York.
7. When Defendant would visit Plaintiff's business in New York, Plaintiff knew where Defendant made accommodations for overnight residency, in New York.
8. During these visits, Plaintiff and Defendant would business lunch in New York.

WHEREFORE, Plaintiff respectfully requests that the application be denied .

Dated: November 27, 2006

_____/s/_____
Law Office of Shmuel Klein, P.C.
268 Route 59
Spring Valley, NY 10977
(845) 425-2510

CERTIFICATE OF SERVICE

I, Shmuel Klein, affirm under the penalties of perjury that I am not a party to this action and I am over the age of 18 years old. I have offices at 268 West Route 59, Spring Valley, NY 10977. I served the within Affirmation in Opposition together with the Exhibits on November 27, 2006 by depositing a true copy thereof in a post-paid wrapper, placing it in an official depository under the exclusive care and custody of the US Postal Service within the State of New York, first class mail, addressed to:

Joe Robert Mogus
General Delivery
Corvallis, OR 97333

_____/s/_____
Law Office of Shmuel Klein, P.C.
268 Route 59
Spring Valley, NY 10977
(845) 425-2510